

47
9/24/01
BUT...

DECLARATION/EXHAUSTION

I, John Charles Kenney, pro se plaintiff in John Charles Kenney v. Jake Mendez, Warden, et al., Case No. 1: CV-00-2143 hereby declare under penalty of perjury pursuant to 28 USC 1746. That, I have "fully" exhausted all available Administrative Remedies available to me pursuant to the Civil Rights Act of Institutionalized Persons Act, 7(a), as amended, 42 USCA 1997e(a). (See Exhaustion Packet) (reflecting) I, further declare that, I also exhausted Federal Administrative Tort Claim regarding the above civil case No. 1: CV-00-2143. I was "emphatically" denied all relief. As a result the present Civil Rights complaint is ripe for adjudication.

Kenney # 05238-041

Dated: 9/17/01

Mr. John Charles Kenney
Register No. 05238-041
Allenwood USP
P.O. Box 3000
White Deer PA 17887-3000

FILED
WILLIAMSPORT, PA

SEP 24 2001

MARY E. D'ANDREA, CLERK
Per [Signature] DEPUTY CLERK

ALP-1330.13B
March 1, 1997
Attachment 1

UNITED STATES PENITENTIARY
ALLENWOOD, Pennsylvania

ADMINISTRATIVE REMEDY PROCEDURE FOR INMATES
INFORMATION RESOLUTION FORM

NOTE TO INMATE: You are advised that prior to receiving and filing a Request for Administrative Remedy Form BP-9 (BP-229.13), you **MUST** attempt to informally resolve your complaint through your Correctional Counselor. Briefly state ONE complaint below and list what efforts you have made to resolve your complaint informally and state the names of staff contacted.

Issued By: W. BECK Initials of Correctional Counselor
Date Issued To The Inmate: 8-24-00

INMATE'S COMMENTS:

1. Complaint: On Wednesday, September 29, 1999, I was viciously beaten and brutally attacked by inmate (former) Unit III - Unit Manager - Gonzalez. Gonzalez for no reason repeatedly struck me about my head - face with "sharp" keys.
 2. Efforts you have made to informally resolve: Upon several occasions I have repeatedly tried to inquire as to why Gonzalez physically attacked me.
 3. Names of staff you contacted: via correspondence to Warden Mendoza. Tried to contact SES Department upon numerous occasions, but SES is unresponsive. Through letters I have contacted NEBOR Manager Mr. Sturgis and Sgt. Cannon.
- Date Returned to Correctional Counselor: 9/25/00

Mr. Karl K. Kenney KENNEY
Inmate's Signature

05238-041
Reg. No.

9/25/00
Date

CORRECTIONAL COUNSELOR'S COMMENTS:

1. Efforts made to informally resolve and staff contacted: SEE ATTACHED

Date BP-9 Issued: 10-6-00


W. Beck / W. D.
Correctional Counselor

P. E. DRIQUE 10-6-2000
Unit Manager (Date)

RESPONSE TO ADMINISTRATIVE REMEDY (BP-8)

TO: KENNEY, JOHN
REG. NO.: 05238-041

This is in response to your Administrative Remedy Form (BP-8) submitted on August 24, 2000. On December 7, 1999 you were found guilty of violation of code 101A, Serious Assault (Attempted). This incident report was written on September 29, 1999, after you attempted to assault your Unit Manager, and staff had to use immediate force to subdue you.


W. Beck
Correctional Counselor

Sensitive Limited Official Use Only

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

(See Attachment Sheet)

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Kennedy John C. 05238-041 I-B Allenwood USP
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

Statement OF Facts

On Wednesday, Sept. 29, 1999, while an inmate at Allenwood USP I was viciously attacked and brutally beaten by my (former) Unit III Mgr. Mr. J.W. Gonzalez. Gonzalez had repeatedly struck me about the head and facial areas with large "sharp" metal keys, which caused me numerous physical and emotional injuries. Even though I was non-resistant and remained completely docile, Gonzalez for no apparent reason assaulted me, while Scarborough assisted Gonzalez by pinning my limbs as Gonzalez assaulted me. Additionally, III-A Case Mgr. Ms. K. Keiser stood as a spectator, she clearly saw/observed Gonzalez and his co-conspirator C10 Scarborough assaulting me, but she failed to protect me from being physically assaulted by her co-workers. As a result of this incident I hereby claim "Excessive Force," Conspiracy to Excessive Force. Deliberate Indifference and Retaliation.

DATE

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

BP 229(10)

Allenwood USP

BOP Attachment
Grounds For Relief

^{October}
 Tuesday, Sept. 10, 2000

I have an absolute right under the Eighth Amendment of the U.S. Constitution to be free from "Cruel and Unusual Punishment." The Eighth Amendment applies to incarcerated prisoners. See, Whitley v. Albers, 475 U.S. 312, 327 (1986); see also, Hudson v. McMillian, 503 U.S. 1, 7 (1992). The force described in this grievance was excessive. Brooks v. Kyle, 204 F.3d 102, 109 (3rd Cir. 2000) and repeatedly applied in "bad" faith. Gonzalez's intent was to cause me absolute harm. It was "cruel and unusual" when Gonzalez committed an aggravated assault upon me by repeatedly striking me in my head and facial areas with large "sharp" steel keys which resulted in "deliberate indifference, because I had received numerous physical injuries as a result of Gonzalez's "gross" acts committed upon me. (See, Med Sheet) (med sheet reflects the "numerous" injuries Gonzalez inflicted on me). Case Mgt. III-A, Ms. Keiser and CIO Scarborough are equally responsible, because they either participated in this attack upon me, thus both failed to protect me. All described above was in violation of my Eighth Amendment rights; see also, BOP P.S. 3402 Standards of Employee Conduct and Responsibility (holding Brutality of inmates by employees will not be permitted... employees may never strike a restrained inmate). Additionally, I am also being retaliated against from this incident, even though I was victimized.

Relief Requested

I, John Charles Kenney, Reg. No. 05238-041 the author of this grievance hereby request 2-million-dollars \$2,000,000.00 for the injuries Gonzalez inflicted on me. I also request deletion of my current designation to USP-Marion, and to be reclassified, because my current classification is incorrect based on biasness.

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: OCTOBER 18, 2000

J. Ash-Carlson
FROM: ADMINISTRATIVE REMEDY COORDINATOR
ALLENWOOD USP

TO : JOHN CHARLES KENNEY, 05238-041
ALLENWOOD USP UNT: I QTR: Z01-103UAD
P.O. BOX 3500
WHITE DEER, PA 17887

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 224261-F1 ADMINISTRATIVE REMEDY REQUEST
DATE RECEIVED : OCTOBER 13, 2000
SUBJECT 1 : ASSAULT BY STAFF
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS
MUST BE RECEIVED WITHIN 20 DAYS OF THE EVENT COMPLAINED
ABOUT.

U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

42 USC 1983 28 USC 1331, 1343.

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-DIR-9 including any attachments must be submitted with this appeal.

From: Kennedy, John, C. 05238-041 I-B Allenwood USP
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL

I appeal the BP-9, at Number 224261-F1 to this office for the following reasons:

1. I was never informed of any time limitations for presenting such claims. Therefore, I was unaware of any time limitations.
2. My (former) III Unit Manager-Gonzalez had informed me that there were not any time limitations, and that I could file such claims any time I wished.
3. Due to the "seriousness" of allegations, and injuries I sustained from Gonzalez. That relief should be afforded to me based upon the merits of these claims presented.

Part B—RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 224261-R1

Part C—RECEIPT

CASE NUMBER: _____


Return to: _____
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

USP/IN DATE SIGNATURE RECIPIENT OF REGIONAL APPEAL BP-230(13) APRIL 1982

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: OCTOBER 25, 2000


FROM: ADMINISTRATIVE REMEDY COORDINATOR
NORTHEAST REGIONAL OFFICE

TO : JOHN CHARLES KENNEY, 05238-041
ALLENWOOD USP UNT: I QTR: Z01-104LAD
P.O. BOX 3500
WHITE DEER, PA 17887

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 224261-R1 REGIONAL APPEAL
DATE RECEIVED : OCTOBER 24, 2000
SUBJECT 1 : ASSAULT BY STAFF
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOUR APPEAL IS UNTIMELY. REGIONAL APPEALS
(BP-10) MUST BE RECEIVED WITHIN 20 DAYS OF THE
WARDEN'S AND CCM'S RESPONSE OR RECEIPT OF THE
DHO'S DECISION. THIS TIME INCLUDES MAIL TIME.

U.S. Department of Justice

Central Office Administrative Remedy Appeal

Federal Bureau of Prisons

BP-11

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: Kenney, John, C 05238-041 I-B Allenwood USA
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A—REASON FOR APPEAL

I am dissatisfied with the BP-10 Response # 224261-A1 from the Northeast Region. As a result, I'm appealing to the Washington Office for the same reasons contained in the enclosed BP-10. And that, I should be awarded the 2-million dollars for the injuries I sustained from W/ Mgr. Gonzalez.

11/6/00
 DATE

Mr John C. Kenney
 SIGNATURE OF REQUESTER

Part B—RESPONSE

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C—RECEIPT

CASE NUMBER: _____

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

USP LVN

BP-231(13)
APRIL 1992

REJECTION NOTICE ADMINISTRATIVE REMEDY

DATE: NOVEMBER 14, 2000

FROM: ADMINISTRATIVE REMEDY COORDINATOR
BOP CENTRAL OFFICE

TO : JOHN CHARLES KENNEY, 05238-041
ALLENWOOD USP UNT: I QTR: Z01-111LAD
P.O. BOX 3500
WHITE DEER, PA 17887

FOR THE REASONS LISTED BELOW, THIS CENTRAL OFFICE APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 224261-A1 CENTRAL OFFICE APPEAL
DATE RECEIVED : NOVEMBER 13, 2000
SUBJECT 1 : ASSAULT BY STAFF
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOUR APPEAL IS UNTIMELY. REGIONAL APPEALS
(BP-10) MUST BE RECEIVED WITHIN 20 DAYS OF THE
WARDEN'S AND CCM'S RESPONSE OR RECEIPT OF THE
DHO'S DECISION. THIS TIME INCLUDES MAIL TIME.

REMARKS : CONCUR WITH RATIONALE FOR REJECTING THIS APPEAL.